



**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
OFFICERS' ASSOCIATION
CENTRAL HEAD QUARTERS
37, Laxmibainagar, New Delhi – 110023**

General Secretary
V.P.ARYA
Mobile:9868210478

No. AIBSNLOA/CHQ/2008/17

Dated : April 30, 2008

To
Shri Kuldeep Goyal,
Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
New Delhi 110 001.

Subject : Avoiding disputes in the Seniority Lists of the SDEs Telecom and others in BSNL in view of the judgment of Central Administrative Tribunal, Chennai Bench in the O.A. No. 301 of 2001 now duly upheld by Madras High Court while dismissing the W.P. No 21961 & 22087 and WPMP No.s 32460 & 32616 of 2001 of Government of India (rep by Secretary, Deptt of Telecommunications), Member (Services) and Others – Request for preventive action.

Sir,

We would like invite your kind personal and immediate attention to the Order passed by Hon'ble Madras High Court on 2nd April 2008 dismissing the above stated Writ Petitions filed by Department of Telecommunications and Others against an earlier judgment of Central Administrative Tribunal of Chennai Bench in the O.A. No 301 of 2001. CAT, Chennai Bench had set aside the seniority assigned by Department of Telecommunications to 270 candidates of competitive quota covered by the impugned order dated 1.2.2001 but excluding one particular candidate and directing to recast the seniority list dated 20.03.2001 by assigning the seniority to these candidates with reference to their actual date of promotion in LDCE quota.

2. The CAT Chennai, in Para 49 of its judgment had stated and held that “We are, therefore, of the view that the seniority rule 2(iii) can operate fairly and reasonably without infringing Article 14 and, 16 only in case of appointments under 66-2/3 quota and 33-1/3 quota made more or less at the same time or within a gap of few days or at least in the same year. Otherwise, it would tantamount to unreasonable implementation of the said seniority rule. We would therefore, hold that the rule 2(iii) contains an implicit condition that inter-se seniority in the ratio of 2:1 shall operate only with reference to the dates of regular appointments. Otherwise, as we have demonstrated, the rule leads to a position of giving the LDCE candidates the benefit of assignment of seniority as if they were appointed retrospectively against vacancies that occurred even prior to their satisfying the eligibility condition for promotion as per Recruitment Rules even though in fact they have not been and in fact could not be appointed retrospectively (Emphasis is ours-GS)”. By upholding the above judgment of Hon'ble CAT, Chennai Bench in OA 301 of 2001, the Hon'ble Madras High Court has practically explained the principle as to how the seniority rule 2(iii) has to be implemented to determine the inter-se seniority between the 66-2/3 quota candidates and 33-1/3rd quota (LDCE) candidates.


3. As per Court Order, correct implementation of inter-se seniority is possible only when regular appointments both in 66-2/3rd and 33-1/3rd quota are made “**more**

or less at the same time or within a gap of few days or at least in the same year”. This clearly means that action has to be initiated for simultaneous regular appointments of both for 66-2/3rd quota (seniority) and 33-1/3rd quota (competitive) of the same vacancy year. But in BSNL also, we find that Limited Departmental Competitive Examinations for promotions are being held years after issue of promotion order against 66-2/3rd quota. This results in having gap of much more than one year between issue of promotion order for regular appointments against seniority quota and competitive quota – thus giving a room for retrospective appointment to one particular quota candidates while assigning inter-se seniority between the candidates of both quota groups. This gives further scope for litigations since in the process the principle of correct application of seniority rules gets violated. Ultimately, the entire cadre becomes affected.

4. We would therefore, urge upon you to kindly ensure that all LDCEs in BSNL, wherever applicable, are held regularly and promotion orders for regular appointments for both seniority quota and LDCE quota candidates are issued almost simultaneously or at least within the same year for proper application of seniority rules to avoid disputes in fixation of seniority and litigations.

With kind regards,

Yours sincerely,



(V.P.Arya)
General Secretary

Copy to:

- (1) Shri Gopal Das,
Director (HRD), BSNL Board.
- (2) Shri A.K.Purwar,
DDG(Pers), BSNL.
- (3) Shri D.P.Dev,
DDG (Estt),BSNL.
- (4) Shri Shakeel Ahmad.
DDG(SR), BSNL.